

## REMARKS/ARGUMENTS

The final Office Action dated July 6, 2005 has been carefully considered. Claims 1, 3 and 7-8 are pending in the present application with claim 1 in independent form. Claims 4-6 and 10-29 were previously withdrawn in Applicant's July 12, 2004 Response to Requirement for Restriction. Claim 1 has been amended hereby in order to further clarify the features of the present application.

Claims 1, 3, 7 and 8 have been rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

In particular, the Examiner contends that in claim 1 the phrases "at least one chamber-like cavity" and "the cavity" and "at least two of the chamber-like cavities" are internally inconsistent. The Examiner further contends that claim 1 is thus vague.

As noted above, claim 1 has been amended in order to further clarify the features of the present application. It is respectfully submitted that claim 1, as amended herein, particularly points out and distinctly claims the subject matter which Applicant regards as the invention.

Accordingly it is respectfully requested that the rejection of claims 1, 3, 7 and 8 under 35 U.S.C. §112 be reconsidered and withdrawn.

Claims 1, 3, 7 and 8 have been rejected under 35 U.S.C. §102(b) as allegedly anticipated by or alternatively under 35 U.S.C. §103(a) as allegedly obvious over U.S. Patent No. 3,991,742 to Gerber.

The Examiner contends that Gerber discloses all the elements of claim 1 of the present application. Applicants respectfully disagree.

Gerber, as understood by Applicants, relates to a solar energy absorbing heat transfer system for warming a pool of water that includes a solar panel including a water impermeable lower member and a very thin flexible upper member which has a low reflective outer surface and a wettable inner surface and has high solar energy absorbent qualities. A flexible spreader may be disposed between and in touching contact with a substantial portion of the inner surface of the upper panel member and the inner surface of the lower member. A distributor may be disposed along the upper edge for evenly distributing fluid across substantially the entire upper edge of the panel and a collector for collecting fluid at the lower edge of the panel, may also be included. Gerber further discloses that the life of the panels is extended if the EPE or CP sheets are prepared in unvulcanized and/or not cross linked state when placed at the particular installation.

Gerber, however, does not disclose an apparatus for heating or cooling including at least two films wherein the films have "one of either a fiber reinforcement or the films are at least partly chemically cross

linked" or including "a third film connected to the two films via a reinforcing supporting layer such that the apparatus simultaneously provides a seal for a surface on which the apparatus is positioned from environmental influences" as recited in amended claim 1 herein.

As noted above, Gerber specifically discloses that the panels be prepared in a non-cross linked state. Thus, Gerber fails to disclose that the two films are at least partly chemically cross linked. In addition, the panel of Gerber is laid directly on asphalt shingle sloping roofs or on a suitable underlayment if the roof is constructed of thick wood shakes or tiles. See Gerber, column 1, lines 50-55. That is, in Gerber, the panels are mounted on a pre-existing roof which provides a seal from environmental influences. In contrast, in the present application, the apparatus may include a third film which is connected to two films via a reinforcing supporting layer such that the apparatus simultaneously provides a seal for the surface on which it is positioned from environmental influences.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, are patentable over the cited art for at least the reasons discussed above.

Claims 1, 3, 7 and 8 have been rejected under 35 U.S.C §103(a) as allegedly unpatentable over the combined teachings of U.S. Patent No. 5,205,348 to Tousignant et al. in view of either U.S. Patent No. 4,585,523 to Giddings or U.S. Patent No. 4,842,049 to Dodds.

The Examiner contends that Tousignant et al. discloses two parallel cavities above and below a seam 112 that are connected to each other and to an inlet and an outlet. The Examiner further contends that Giddings discloses outlets at the top and bottom of a plastic film materials and vertical seams that divide the cavity into either parallel chamber-like cavities. The Examiner contends that it would have been obvious to use a cross-linked polyethylene material in the films of Tousignant et al. or Giddings for the reasons taught by Dodds at column 6, line 66 to column 7, line 2 since it would have been obvious to one of ordinary skill in the art to take advantage of any of these desirable properties of cross-linked polyethylene. Applicants respectfully disagree.

Tousignant et al., as understood by Applicants, relates to semi-rigid heat transfer devices that are provided for heating or cooling components, such as electrical components, wherein the heat transfer devices are sufficiently flexible to conform to the shapes of the components, but are sufficiently rigid to maintain its overall structural shape. The heat transfer devices include at least a frame or a support portion thereof and a layer of flexible film.

Giddings as understood by Applicants, relates to a vapor compression distillation apparatus utilizing a flexible heat exchange medium with a nonwettable condensation face and an opposing readily wettable wicked evaporation face arranged in envelope configuration which provide large heat transfer areas within relatively small volumes. More specifically, Giddings discloses a distillation apparatus for converting

impure water into pure or potable water having a pressure or vacuum containing housing or shell 10 with heat retentive insulation 11. The interior of the shell is divided into a feed chamber 20 and evaporation chamber 30 and a condensing chamber 40, i.e. by a feed distribution tray 21 and impermeable heat conducting membranes 51 in the form of inverted sacks or envelopes.

Dodds, as understood by Applicants, relates to a heat exchange apparatus having a first header for receiving fluid from a source, flexible thin-walled tubular plastic heat exchange elements defining a plurality of passages through a heat exchange zone and a second header means for receiving fluid from plastic heat exchange elements after passing through said heat exchange zone.

However, none of Tousignant et al., Giddings and/or Dodds, teach or suggest an apparatus for heating or cooling including "a third film connected to the two films via a reinforcing supporting layer such that the apparatus simultaneously provides a seal for a surface on which the apparatus is positioned from environmental influences" as recited in amended claim 1 of the present application.

As noted above, Tousignant et al. and Dodds relate to heat exchange apparatuses while Giddings relates to a distillation apparatus. None of these references provide any mention of providing a seal for a surface on which the apparatus is positioned from environmental influences.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, are patentable over the cited art for at least the reasons described above.

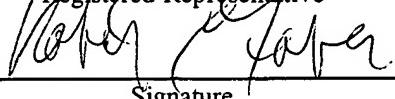
In light of the remarks and amendments made herein, it is respectfully submitted that claims 1, 3 and 7-8 are patentable over the cited art and are in condition for allowance.

Favorable reconsideration of the present application is respectfully requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on: January 5, 2006

Robert C. Faber

Name of applicant, assignee or  
Registered Representative



Signature

January 5, 2006

Date of Signature

Respectfully submitted,



Robert C. Faber

Registration No.: 24,322

OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Telephone: (212) 382-0700

RCF:KJB/jl